

**US Army Corps
of Engineers®**

PUBLIC NOTICE

ESTABLISHMENT OF A MITIGATION BANK

LOS ANGELES DISTRICT

Public Notice/Application No.: 200401047-JMB

Comment Period: November 10 through December 12, 2005

Project Manager: Jeannette M. Baker (858) 674-5385 jeannette.m.baker@usace.army.mil

Applicant

West Mark Development Corporation
1902 Wright Place Ste 200
Carlsbad, California 92008

Contact

Mike Mcollum
McCollum Associates
916-688-2040

Location

At a property bounded by Palomar Airport Road to the North, open space to the west and south, and office buildings and open space to the east in Carlsbad, San Diego County, California.

Activity

To create a mitigation bank on an 18.73-acre parcel of land located in Carlsbad, California (Figure 1). For more information see the attached prospectus and page 3 of this notice.

Interested parties are hereby notified that an application has been received for a Department of the Army permit for the activity described herein and shown on the attached drawing(s). Interested parties are invited to provide their views on the proposed work, which will become a part of the record and will be considered in the decision. This permit will be issued or denied under Section 404 of the Clean Water Act of 1972 (33 U.S.C. 1344). Comments should be mailed to:

U.S. Army Corps of Engineers, Los Angeles District
Regulatory Branch - San Diego Field Office
ATTN: CESPL-CO-R-200401047-JMB
16885 W. Bernardo Drive, Suite 300-A
San Diego, California 92127

Alternatively, comments can be sent electronically to: jeannette.m.baker@usace.army.mil

Evaluation Factors

The decision whether to issue a permit will be based on an evaluation of the probable impact including cumulative impacts of the proposed activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefit which reasonably may be expected to accrue from the proposal must be balanced against its reasonably foreseeable detriments. All factors which may be relevant to the proposal will be considered including the cumulative effects thereof. Factors that will be considered include conservation, economics, aesthetics, general environmental concerns, wetlands, cultural values, fish and wildlife values, flood hazards, flood plain values, land use, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food production and, in general, the needs and welfare of the people. In addition, if the proposal would discharge dredged or fill material, the evaluation of the activity will include application of the EPA Guidelines (40 CFR 230) as required by Section 404 (b)(1) of the Clean Water Act.

The Corps of Engineers is soliciting comments from the public; Federal, state, and local agencies and officials; Indian tribes; and other interested parties in order to consider and evaluate the impacts of this proposed activity. Any comments received will be considered by the Corps of Engineers to determine whether to issue, modify, condition or deny a permit for this proposal. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and the other public interest factors listed above. Comments are used in the preparation of an Environmental Assessment and/or an Environmental Impact Statement pursuant to the National Environmental Policy Act. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity.

Preliminary Review of Selected Factors

EIS Determination- A preliminary determination has been made that an environmental impact statement is not required for the proposed work.

Water Quality- The applicant is required to obtain water quality certification, under Section 401 of the Clean Water Act, from the California Regional Water Quality Control Board. Section 401 requires that any applicant for an individual Section 404 permit provide proof of water quality certification to the Corps of Engineers prior to permit issuance. For any proposed activity on Tribal land that is subject to Section 404 jurisdiction, the applicant will be required to obtain water quality certification from the U.S. Environmental Protection Agency.

Coastal Zone Management- The applicant has certified that the proposed activity complies with and will be conducted in a manner that is consistent with the approved State Coastal Zone Management Program. The District Engineer hereby requests the California Coastal Commission's concurrence or nonconcurrence.

Cultural Resources- The latest version of the National Register of Historic Places has been consulted and this site is not listed. This review constitutes the extent of cultural resources investigations by the District Engineer, and he is otherwise unaware of the presence of such resources.

Endangered Species- Preliminary determinations indicate that the proposed activity would not affect federally-listed endangered or threatened species, or their critical habitat. Therefore, formal consultation under Section 7 of the Endangered Species Act does not appear to be required at this time.

Public Hearing- Any person may request, in writing, within the comment period specified in this notice, that a public hearing be held to consider this application. Requests for public hearing shall state with particularity the reasons for holding a public hearing.

Proposed Activity

The applicant proposes to formally establish a mitigation bank on an 18.73-acre parcel of land located in Carlsbad, California (Figure 1). The formal establishment of the bank will be in compliance with the Mitigation Banking Guidance published in the Federal Register on November 28, 1995. The applicant has indicated that the activities involved to create/restore wetlands on site do not involve the discharge of dredged or fill material. As such, a Corps of Engineers permit is not required to do the work.

Additional Project Information

Please see the attached prospectus.

The geographic service area covered by the habitat bank will include all of Hydrologic Unit 4 west of Interstate 15, and portions of Hydrologic Unit 3 in the Cities of Oceanside and Vista (Figure 4).

Credits from the bank would be sold as mitigation for projects within the service area as deemed appropriate during the permitting process for these projects.

For additional information please call Jeannette M. Baker of my staff at (858) 674-5385. This public notice is issued by the Chief, Regulatory Branch.

NORTH COUNTY HABITAT BANK PROSPECTUS September 2005

I. INTRODUCTION

This prospectus has been provided by Westmark (Sponsor) for the creation of create a mitigation bank on an 18.73-acre parcel of land located in Carlsbad, California (Figure 1). The property is bounded by Palomar Airport Road to the North, open space to the west and south, and office buildings and open space to the east. Credits from the North County Habitat Bank (NCHB) will be used to mitigate both public and private sector impacts to wetland and upland habitats in the region.

Many projects with relatively small impacts often are required to mitigate by implementing small restoration projects in areas that may have limited long-term benefits for the habitats and species they are intended to mitigate for. Additionally, these mitigation programs are generally very inefficient from a cost standpoint.

This habitat bank will allow for the maintenance and/or establishment of up to 15.7 acres of high quality habitat along Encinas Creek (Figure 2). The restoration will include approximately 6.07 acres of pampas grass (*Cortaderia selloana*) removal, planting of wetland vegetation, restoration of a seasonal wetland, and enhancement of existing upland habitats that transition into the wetland areas.

It is well known that the development of large wildlife habitat areas is much more beneficial than smaller fragmented habitat pieces. Larger habitat areas allow for numerous habitat types to exist together creating a biologically richer environment that will attract and sustain a wider number of wildlife species which are able to move within and between the habitat patches. This can be critical to long term viability and persistence of wildlife populations.

By consolidating compensation requirements, the habitat bank can more effectively mitigate impacts as well as provide economics of scale related to planning, implementation, monitoring and management of mitigation projects. The large acreage within the bank will maximize the opportunities for contributing to biodiversity and increase the overall ecological functions of the bank.

II. EXISTING BIOLOGICAL CONDITIONS

The site supports five native and one non-native vegetation communities or habitats: riparian forest, mule fat scrub, freshwater marsh, Diegan coastal sage scrub, coastal sage scrub/chaparral, non-native grassland, and disturbed habitat.

Riparian Forest

Riparian forest consists of dense, broad-leaved, winter-deciduous stands of trees dominated by mature willows and occurs in low-lying areas of the habitat bank near seasonally wet areas. Numerous wildlife species inhabit this habitat type because of its association with water, the plant and structural diversity and the cover it provides for nesting and foraging. This habitat type is used by a variety of wildlife including the western toad, Pacific tree frog, rufous-sided tow, house wren, common yellow throat, song sparrow, Virginia opossum, raccoon and striped skunk.

Mule Fat Scrub

Mule fat scrub is dominated by mule fat and usually occurs along the slightly drier edges of riparian forest. Like riparian forest, this habitat is used by a variety of species including pacific tree frog, western side-blotched lizard, song sparrow, common yellow-throat, lesser goldfinch, raccoon and striped skunk.

Freshwater Marsh

Freshwater marsh occurs in areas that remain moist throughout much, if not all of the year. Cattails and bulrushes are the dominant plant species. These areas are used by bullfrogs, pacific tree frogs, two-striped garter snakes, red-winged blackbirds, song sparrows, common yellow-throats, Virginia opossums and raccoons.

Diegan Coastal Sage Scrub

Diegan coastal sage scrub occurs on the drier slopes of the southern and northern portions of the bank. The Diegan coastal sage scrub on the site includes California sagebrush, laurel sumac, lemonadeberry, flat-top buckwheat, and California encelia. Diegan coastal sage scrub supports a variety of wildlife species including, gopher snakes, western side-blotched lizard, alligator lizard, California towhee, Bewick's wren, lesser goldfinch, woodrat, and a variety of mice species.

Coastal Sage Scrub/Chaparral

Coastal sage scrub/chaparral is a habitat type where two habitats, Diegan coastal sage scrub and chamise or southern mixed chaparral occur together. Chaparral is composed of broad- and thick-leaved shrubs do not typically loose their leaves in the summer, whereas Diegan coastal sage scrub has a number of plant species that loose their leaves in the summer. Plant components of coastal sage scrub/chaparral include chamise, lemonadeberry, mission manzanita, scrub oak, California sagebrush, and flat-top buckwheat. Many of the same species that occur in Diegan coastal sage scrub would be expected to occur in coastal sage scrub/chaparral.

Non-native Grassland

Non-native grassland consists mostly of non-native annual grasses and flowering forbs. Non-

native grassland is used by morning doves, house finches, northern mockingbird, raptors for foraging, various mice, and brush rabbits.

Disturbed Habitat

Disturbed habitats are lacking in vegetation or dominated by weedy species that reproduce rapidly and out-compete native vegetation, and consist primarily of pampas grass in the bank. Disturbed areas occur as a result of past agriculture. In general, disturbed habitats hold very little habitat value for most species.

III. HYDROLOGY

The habitat bank receives its water directly from rainfall and from Encinas Creek, which has some flows year-round from runoff from urban development within its watershed. Plants throughout the site indicate that the ground water levels are sufficiently shallow to support the species proposed for restoration. Additionally, removal of the pampas grass in the spring of 2005 has resulted in increased availability of groundwater for wetland species.

IV. PROPOSED RESTORATION

The habitat bank site presents a large restoration opportunity for the Sponsor to create excellent wildlife habitat that will enhance the existing habitat in the eastern and western portions of the bank site. Restoration will range from creation of high quality habitat where none exists currently in areas supporting pampas grass, to enhancement of the existing riparian woodland that is becoming infested with an understory of pampas grass. Restoration plans for each of the different areas within the mitigation bank are described below. Refer to Figure 3 for the locations of the corresponding areas.

Riparian Woodland Creation (6.07 acres)

Restoration within habitat creation areas will include the removal of approximately 6.07 acres of pampas grass followed by revegetation of the entire area. The first phase of this pampas grass removal was completed in the spring of 2005, and initial plantings have occurred. The pampas grass was treated with an herbicide appropriate for use in wetland areas, and allowed to dry. The dead plants were then mowed to the base, and the vegetative material was left in place. Plantings were placed in the areas between the pampas grass root masses. Plantings include several willow species, wild rose, blackberry, western sycamore, western cottonwood, and mule fat.

A follow-up eradication program will be implemented to target the pampas grass seedlings along with other non-native weedy species that will be sprayed or removed by hand depending upon the level of re-infestation.

Within the 6.07 acres of riparian woodland creation, it is anticipated that approximately 0.5 acre will end up supporting freshwater marsh along the Encinas Creek channel. Cattails and bulrushes are expected to dominate this area.

Riparian Woodland/Mule Fat Scrub enhancement (6.78 acres)

The western and eastern portions of the habitat bank support existing riparian woodland and mule fat scrub habitat that is becoming infested with pampas grass. Willows and mule fat dominate these areas currently, although pampas grass covers as much as 50 percent of the understory. The existing pampas grass has been sprayed and hand cut where feasible. Similar to the riparian woodland, the pampas grass seedlings will continue to be treated with an herbicide appropriate for use in wetland areas. Only limited planting of the understory with mule fat will occur.

V. PLANTING PALLETE

Preliminary plant numbers compute to approximately 3,000 cuttings and 1-gallon size plants will be used for the habitat bank. These plant numbers may change depending upon plant availability and the initial success of the plantings. Plants from the following list will be used at the mitigation bank:

Riparian species

Willow species
Fremont cottonwood
Western sycamore
Mule fat
Mexican elderberry
Wild rose
blackberry

Seeded species

Bulrush
California evening primrose
Douglas sagewart

VI. RESTORATION SCHEDULE

The project has been through the environmental review process with the City of Carlsbad. As noted earlier, the initial phases of the restoration were started in the spring of 2005 with the removal of

pampas grass from the site. Container stock was planted immediately after the pampas grass was mowed. An additional 2,000 cuttings were planted in June. Maintenance of the site is ongoing. Upon approval of the habitat bank by the resource agencies, credits may begin to be sold. Once the restoration has met success criteria, the site will be turned over to a long-term habitat manager for maintenance as wildlife habitat.

Creation of the Mitigation Bank will generally adhere to the following sequence:

- Pampas grass removal
- Planting of native wetland species
- Maintenance and monitoring until 5-year success criteria met
- Begin long term maintenance of entire Habitat Bank

VII. SUCCESS CRITERIA

The success criteria developed for the bank are generally consistent with success criteria for mitigation sites in southern California. Final and yearly success criteria are included to measure interim and ultimate habitat development (Table 2). Species richness is the number of individual species observed within the restoration area. No more than 10 percent cover of non-native herbaceous species will be allowed in the restoration area, and the total percent cover of native species will increase to a minimum of 90 percent cover by the fifth year.

Table 2 SUCCESS CRITERIA MILESTONES FOR RIPARIAN WOODLAND			
CRITERIA	YEAR (percent cover)		
	3	4	5
Species richness [†]	6	8	10
Percent non-native herbaceous species	10	10	10
Percent native species for trees, shrubs, and herbaceous species	60	75	90

[†]Represents number of individual species.

VIII. MONITORING AND REPORTING

Maintenance monitoring will rely on visual observations of plant establishment and growth and other site conditions (e.g., soil stability). Technical monitoring will rely on quantitative criteria to measure the success of the mitigation. Technical monitoring and reporting including quantitative sampling will be done for Years 3, 4, and 5 of the project. Annual reports will also be done for the first and second years and will focus more on what has been done in the previous year for maintenance and what (if any) adjustments are necessary to ensure ultimate success of the restoration project.

A. Monitoring and Reporting of Vegetation Success

Monitoring of the site preparation and planting will be conducted. Once the plants are installed, long-term monitoring will be conducted at least monthly during the first year following planting. During the second year, the sites will be monitored once a month from March through June, and every other month during the remaining months. During years three through five, monitoring will occur every 4 months, or as needed.

Regular monitoring evaluation during the first two years will consist of a qualitative survey of general health and weeding needs and predation problems.

Photo points will be established during the plant installation phase. Photographs will be taken from these locations every four months during the first two years. During years three through five photographs will be taken once a year. Representative photographs will be included in the Annual Restoration Report.

Bird and wildlife surveys will be conducted to document use of the site as the vegetation and habitats mature. This information and updates on the implementation and success of the management recommendations will also be included in the annual report.

B. Calculations and Accounting of Habitat Bank Credits

Quantitative assessments will be used to assess restoration, creation and enhancement activities within the Habitat bank and to quantify the amount of available credits. Assessments will occur annually for the first five years of the site. Because the Habitat bank has the potential to be debited for over twenty years, future assessment intervals to calculate available credits will be determined after the bank has been in place for ten years.

Each time an assessment is completed a report will be provided to the resource agencies documenting the resources at the mitigation site and the credits and debits applied to the bank. The Sponsor will establish and maintain an accounting system which documents the activity of all the mitigation bank accounts.

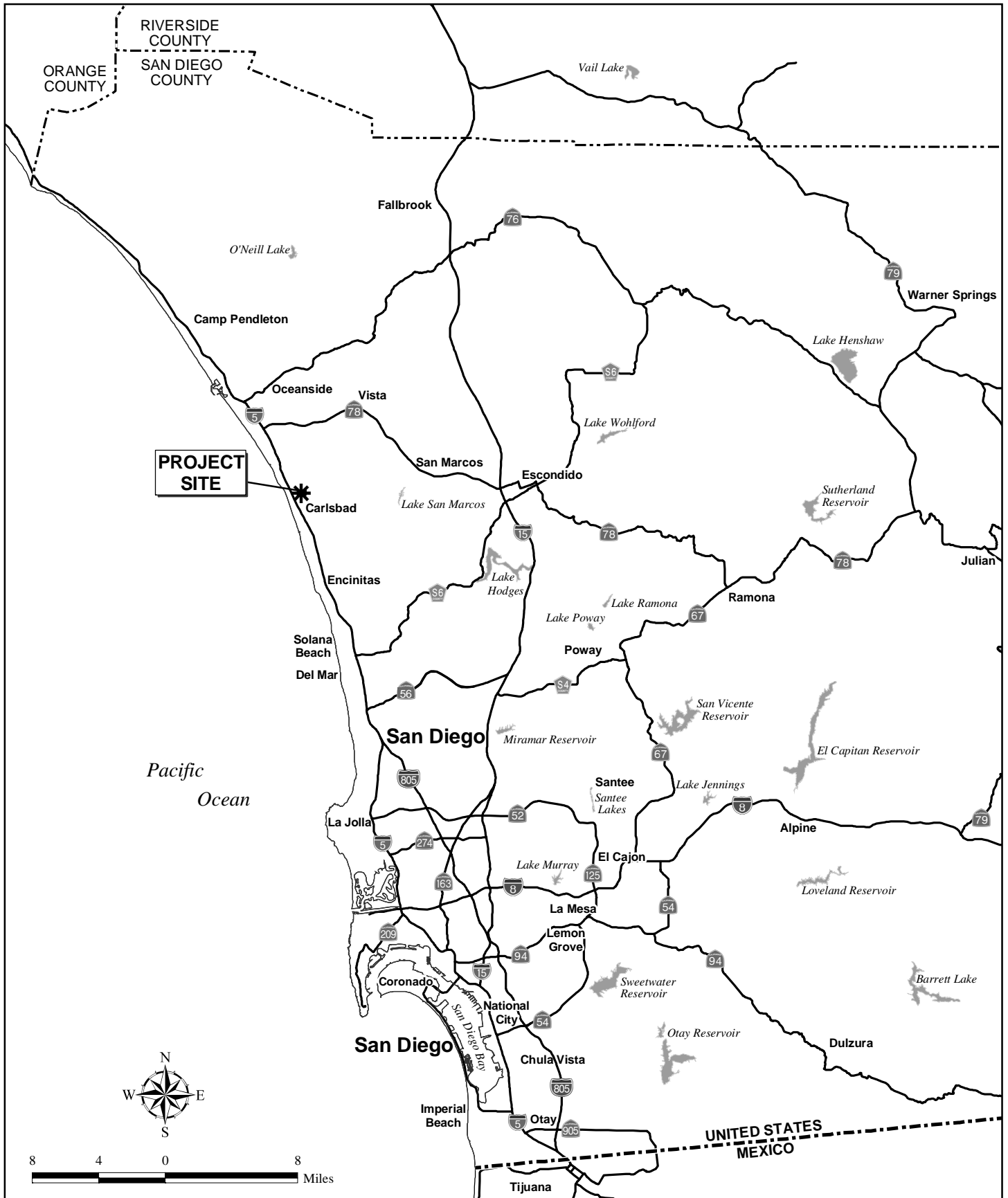
IX. MITIGATION CREDIT USE

NCHB credits will be used for mitigation required on drainages in Carlsbad, and parts of Oceanside, Encinitas, Vista, San Marcos, Escondido and the County of San Diego. The geographic service area covered by the habitat bank will include all of Hydrologic Unit 4 west of Interstate 15, and portions of Hydrologic Unit 3 in the Cities of Oceanside and Vista (Figure 4). Projects that may use the bank have traditionally mitigated onsite, even if the mitigation occurred in areas of limited long-term biological value. While these small revegetation sites have utilized the best available mitigation, use of the habitat bank is environmentally preferable to most of the on-site mitigation. As described in Section VIII Monitoring and Reporting, bank credits will be calculated and debited as mitigation is needed for

individual projects. The Sponsor will coordinate with the resource agencies to establish the accounting procedures for the bank.

X. SUMMARY

Establishment of the North County Habitat Bank is an excellent opportunity to create and restore a mosaic of habitats along Encinas Creek in coastal northern San Diego County. Creation of wetlands combined with the long-term maintenance of upland areas and implementation of management recommendations will reduce the threat of degradation to these areas and will result in an environmentally superior system than that created by the small individual revegetation sites. The Sponsor's representatives have successfully implemented several restoration efforts in the region over the last several years, and are very confident in the success of the North County Habitat Bank.

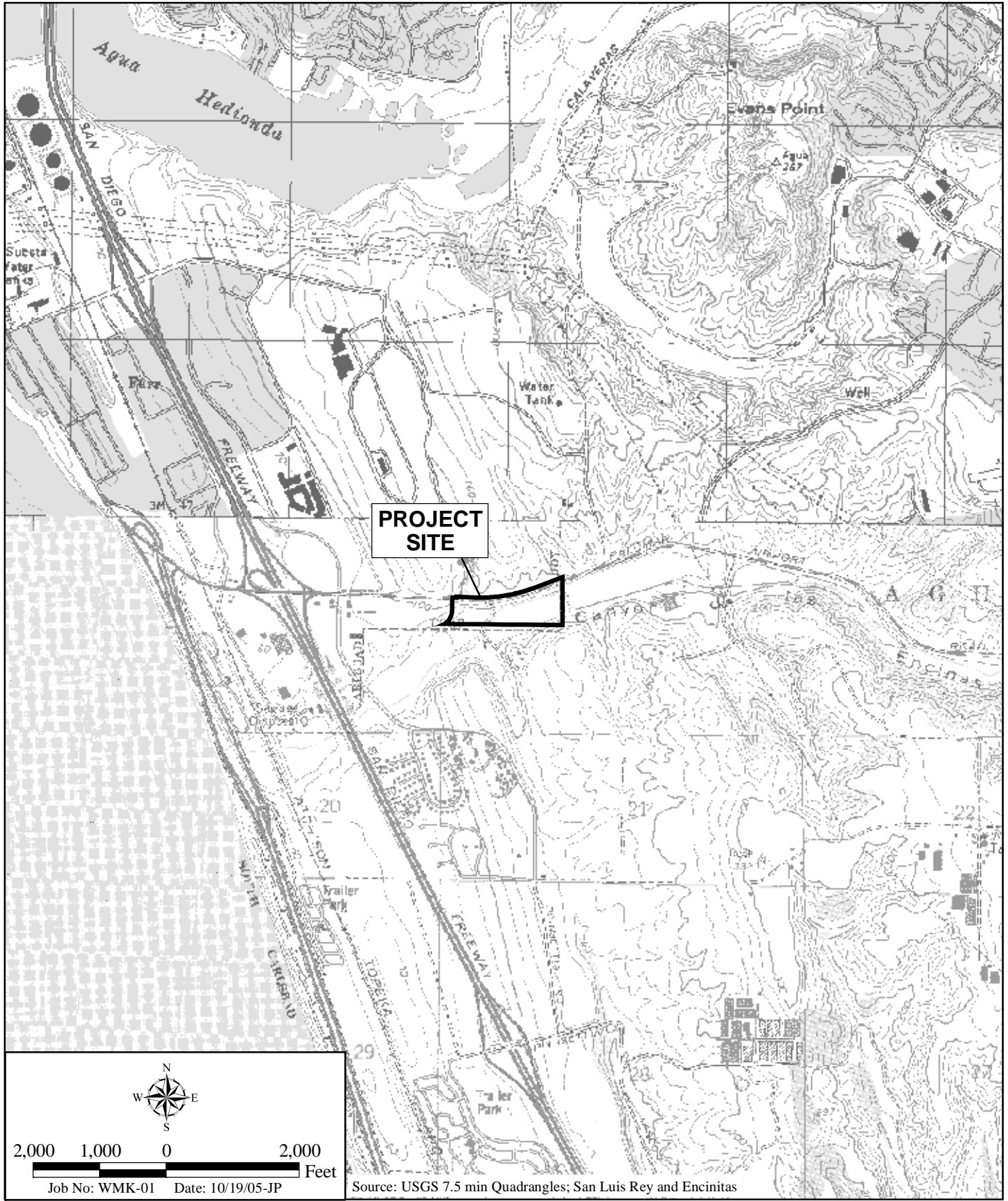


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Regional Location Map

NORTH COUNTY HABITAT BANK

Figure 1

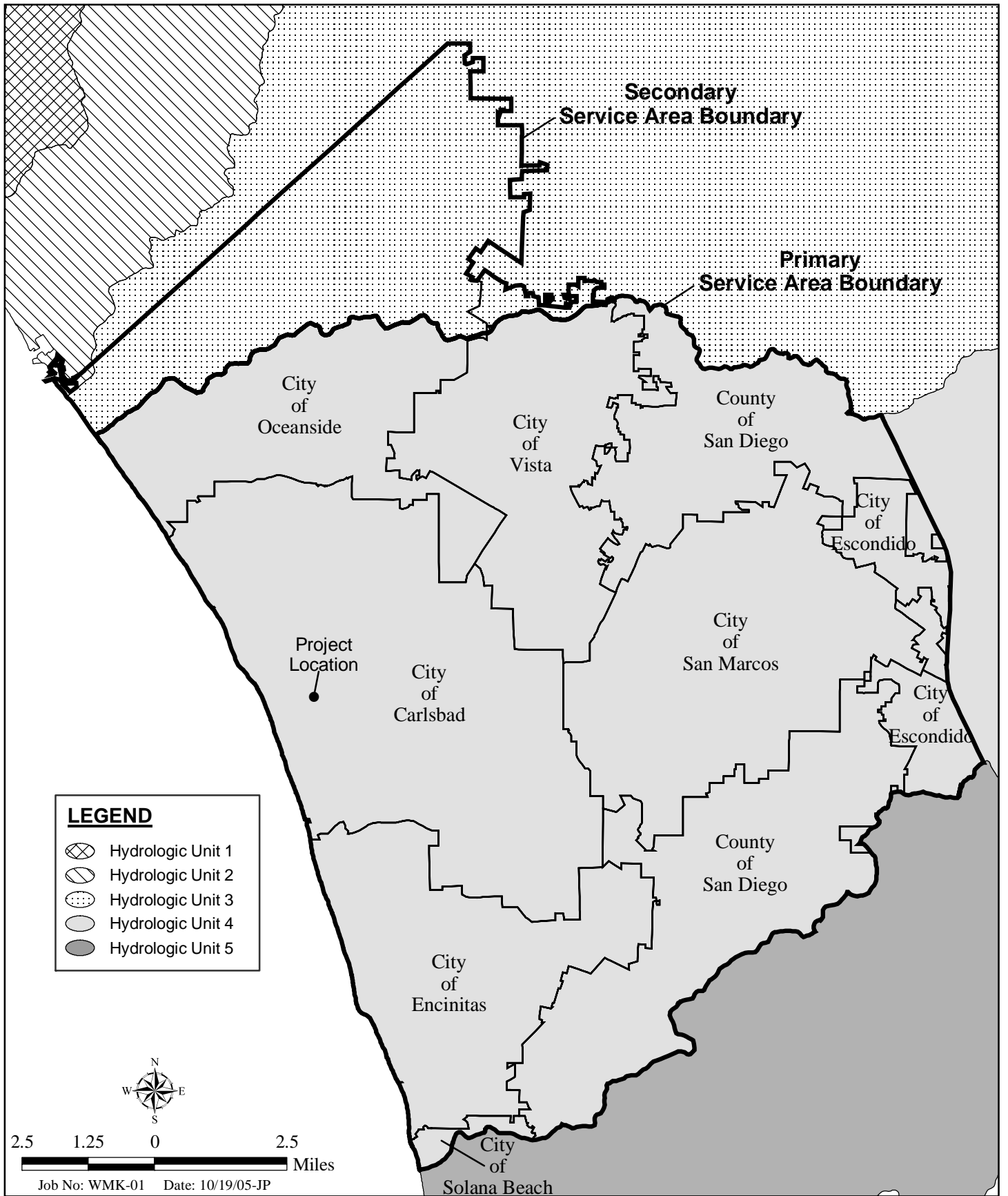


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Project Location Map

NORTH COUNTY HABITAT BANK

Figure 2



Service Area

NORTH COUNTY HABITAT BANK